Elections Canada

Election Handbook for Candidates, Their Official Agents and Auditors

EC 20190 (03/07)

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1. Introduction

1.1 Purpose and scope of the handbook

This handbook is designed to help candidates and their official agents comply with the *Canada Elections Act*. It is addressed primarily to the official agent, who should use it as a tool in administering the candidate's campaign. It does not take precedence over the legislation, and you should read it in conjunction with the Act. The handbook has 10 main sections:

1. Introduction
2. Roles and responsibilities
3. Nominations – procedures and fees
4. Contributions and other cash inflows to the campaign
5. Electoral campaign expenses
6. Campaign reporting requirements
7. Gifts and other advantages
8. Closing out the campaign
9. Compliance and enforcement

1.2 Questions about this handbook

You should direct any questions about this handbook to the Office of the Chief Electoral Officer, more commonly known as Elections Canada. You can reach us by telephone at 1-800-486-6563, by fax at 1-888-523-9333, by e-mail through our Web site at www.elections.ca, or by mail to the Office of the Chief Electoral Officer, 257 Slater Street, Ottawa, Ontario K1A 0M6.

Candidates and official agents often require more technical information than the general public. Please identify yourself when you communicate with us, so that we can promptly direct you to the appropriate specialist.

Please bring all alleged violations of the *Canada Elections Act* to the attention of the Commissioner of Canada Elections, in writing, by mail to 257 Slater Street, Ottawa, Ontario K1A 0M6 or by fax at 613-990-4877. The Commissioner is responsible for ensuring compliance with the Act and for its enforcement. He or she assesses each case in relation to the law.

1.3 Additional reference material

You should read this handbook in conjunction with the accompanying material in the election kit provided to the candidate. Numerous situations introduced here are illustrated with examples in the additional reference material.

1.4 Symbols used here

Throughout this handbook, we refer to the documents that comprise the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151) with a 🕮 symbol. For example, here is what a reference to the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) in the *Supplement* might look like:

> 🕮 To see how to record the payment of the nomination deposit at the start of the candidate's campaign, see the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A), p. 13, transaction 8-13.

We refer to documents that you can download from our Web site (www.elections.ca) with a symbol. For example:

> The *Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20190) referred to in the preceding paragraph is available on the main Elections Canada Web site.

2. Roles and responsibilities

2.1 Candidate

The provisions outlined here apply to all candidates in general elections and by-elections, unless otherwise specified.

Definition

A candidate is a person whose nomination at an election has been confirmed by the local returning officer, usually within 48 hours of nomination papers being filed for the person. Once confirmed, a candidate remains a candidate in that election until the candidate's official agent complies with the financial reporting requirements of the Act, including the possible payment of any unpaid claims, filing any amended return, and disposing of any surplus of electoral funds.
[2(1) "candidate", 65, 71(1)]

For the purposes of the election financing provisions, a candidate is also deemed to be a candidate from the time he or she accepts a contribution or incurs an electoral campaign expense.
[82, 365]

In addition, for the purposes of accepting and reporting "gifts and other advantages" other than contributions and transfers made under the *Canada Elections Act*, a person is considered to have become a candidate on the earlier of:

- the day on which he or she is selected at a nomination contest, or
- the day on which the writ is issued for the election
  [92.1, 92.2]

Eligibility

Any Canadian citizen who is at least 18 years of age on election day – called "polling day" in the Act – may be a candidate, unless specifically disqualified under the Act. A candidate need not reside in or be registered on the list of electors for the electoral district in which he or she seeks election. A candidate can be a candidate in only one electoral district during any election.
[65]

Leave of absence

If a potential candidate is an employee of an employer to whom Part III of the *Canada Labour Code* applies, and the employee applies for leave of absence to be a candidate, the employer must grant the employee leave of absence, with or without pay, to seek nomination as a candidate and to be a candidate for the time during the election period that he or she requested.
[80]

Part III of the *Canada Labour Code* generally applies to every employer in an undertaking that performs an activity under federal jurisdiction, such as banks, air transport, and radio and television broadcasting, and interprovincial and international services such as railways, highway transport, and shipping and shipping services.

Responsibilities and obligations

Election expenses

The candidate and the candidate's official agent should budget the campaign carefully, because election expenses are subject to limitations. In general, the candidate is responsible for all debts relating to the campaign that remain at the end of the campaign. There is one exception: if the candidate is entitled to a reimbursement of election expenses and personal expenses, and the initial reimbursement exceeds 60% of paid election and personal expenses, the official agent is personally responsible for remitting the overpayment.
[440, 446, 464]

Personal expenses

The candidate must submit a *Candidate's Statement of Personal Expenses* (EC 20220) and supporting vouchers to the official agent within three months of election day, even if no expense is incurred. This statement must include all personal expenses, and expenses of representatives present at polling stations, that were paid by the candidate and not reimbursed by the official agent.
[409, 409.1, 451(2.1), 456(1), 464]

Gifts or other advantages o[illegible]r than contributions

If section 92.2 of the Act is applicable, the candidate must submit a *Candidate's Statement of Gifts or Other Advantages Received* (EC 20053) to the Chief Electoral Officer within four months of election day, or within four months of the date of the withdrawal of the writ, as the case may be.
[92.2(3), 92.2(4)]

Blackout period for election advertising

The Act specifically prohibits the transmission to the public in an electoral district of any election advertising by any means on election day before the close of all the polling stations in the electoral district.
[323(1)]

This prohibition does not apply to:

- the transmission of a notice of an event that the leader of a registered party intends to attend, or an invitation to meet or hear the leader of a registered party
  [323(2)]
- the transmission of a message that was previously transmitted to the public on the Internet and that was not changed during the blackout period
  [324(*a*)]
- the distribution on election day of pamphlets or the posting of messages on signs, posters or banners
  [166, 324(*b*)]

The Act prohibits anyone from:

- knowingly using a means of transmission of the Government of Canada to conduct election advertising, or to cause it to be conducted
  [321(1)]
- broadcasting outside Canada any election advertising concerning an election
  [330(1), 330(2)]
- in an electoral district on election day before the close of all of the polling stations in that electoral district, transmitting the results of an election survey that have not previously been transmitted to the public
  [328]
- transmitting the result or purported result of the vote in an electoral district to the public in another electoral district before the close of all polling stations in that other electoral district
  [329]

2.2 Official agent

The candidate must appoint an official agent – who will act as the treasurer of the campaign – before any election expense can be paid or contribution received. The candidate may need to appoint the agent before the candidate's nomination, and even before the issue of the writ.
[83(1)]

The official agent is responsible for administering the candidate's financial transactions for the candidate's electoral campaign, and for reporting on those transactions in accordance with the Act. For a list of the official agent's duties, please see the *Official Agent's Checklist* (EC 20153).
[436]

The candidate should notify election workers and supporters about the appointment at once. If the official agent resigns, dies, becomes incapable of performing the tasks or has his or her appointment revoked, the candidate must appoint someone else immediately. The candidate must immediately notify the Chief Electoral Officer in writing of the new appointment, stating the name and personal address of the new official agent. The candidate must also provide a declaration from the new official agent, indicating the agent's acceptance of the appointment. A candidate may have only one official agent at a time.
[83, 86, 87, 88]

Qualifications and eligibility

To act as official agent of a candidate, a person must be capable of entering into contracts in the province or territory in which the candidate is seeking election. Beyond this minimum qualification, the official agent should be a person capable of managing finances. Managing finances for an electoral campaign is challenging: among other things, it involves recording contributions, authorizing every electoral campaign expense, managing the petty cash account, preparing the *Candidate's Electoral Campaign Return* (EC 20120) and other forms, and disposing of the surplus. It is essential that the official agent be dedicated to his or her role, and be willing to spend the necessary time to fulfill all of an agent's obligations.
[84]

The following persons are not eligible to be the official agent of a candidate:

- an election officer or a member of the staff of a returning officer
- an undischarged bankrupt
- an auditor appointed as required by the Act
- a person who is not qualified as an elector
- a person who does not have the capacity to enter into contracts in the province in which the person ordinarily resides
  [84]

Responsibilities and obligations

Acceptance of appointment

The official agent must accept the appointment in writing on the declaration included with the candidate's nomination papers. Failing this, the nomination of the candidate will not be accepted by the returning officer. *The Official Agent's Checklist* (EC 20153) outlines this responsibility and many of the others outlined below.
[86]

Campaign bank account

The official agent must open a separate bank account for the sole purpose of the candidate's electoral campaign in a Canadian financial institution as defined in section 2 of the *Bank Act*, or in an authorized foreign bank as defined in section 2 that is not affected by subsection 524(2) of the *Bank Act*.
[437(1)]

A Canadian financial institution is one that is incorporated or formed by or under an Act of Parliament or a provincial legislature. The *Bank Act*'s definition of a foreign bank is complex; for details, consult that Act.

The account must name the account holder as follows: "(*name of official agent*), official agent". For example: "Roland Jones, official agent".
[437(2)]

All of the candidate's financial transactions for the campaign that involve the payment or receipt of money are to be paid from, or deposited to, the account by the official agent. Cheques must be made payable to the official agent.
[437(3)]

After the election or the withdrawal or death of the candidate, the official agent must close the account once any unpaid claim or surplus of electoral funds has been dealt with in accordance with the Act.
[437(4)]

On closing the bank account, the official agent must provide the Chief Electoral Officer with the final statement and confirmation of closure of the account.
[437(5)]

Books and records

Both the candidate and the official agent are responsible for budget control and for making sure that the election expenses limit is respected.
[443(1)]

The official agent must maintain all books and records of contributions, loans and expenses, as well as other inflows and outflows of funds. For example:

- obtaining the name of the contributor if the amount of the contribution exceeds $20, and if it exceeds $200, obtaining both the name and address
[451(2)]
- recording a non-monetary contribution as both a contribution and an expense
[406, 407]
- issuing, accounting for and controlling all receipts, and returning unused official tax receipts to the returning officer within one month after election day
[438(3), 478]

Once the candidate's nomination is confirmed, the official agent can pick up at the office of the returning officer the necessary copies of the books, records and forms supplied by Elections Canada. Some of these forms are also available from the Elections Canada Web site.
[478(3)]

Payment of expenses

The official agent is the only person authorized under the Act to pay or to authorize the payment of election expenses. The only exceptions are the candidate's personal expenses paid by the candidate, and the expenses paid out of a petty cash fund by persons authorized in writing by the official agent.
[411(1), 438(4)]

Petty cash account

The official agent can authorize persons to pay expenses up to a maximum amount out of a petty cash account. The official agent must clearly authorize in writing who can make payments out of the petty cash account, and how much these payments can total. Any authorized person must keep all invoices and documents related to these expenses so that the auditor can later examine them.
[411]

Accepting contributions

The official agent must accept all contributions to the campaign. This means that all money given to a canvasser or to the candidate must be turned over to the official agent for deposit in the account. Neither the candidate nor any campaign worker may keep any part of that money to pay expenses.
[438(2)]

Non-monetary contributions, such as the donation or loan of goods and services, must also be made through the official agent. This is important because the donated goods and services are electoral campaign expenses that may be subject to the election expenses limit.
[406, 407, 438(2)]

Receipts must be issued for most contributions

The Act requires that the official agent issue a receipt for all monetary and non-monetary contributions in excess of $20.
[404.4]

Contributions for which income tax receipts may be issued

An official agent may issue receipts valid for income tax purposes for monetary contributions received in the period:

- beginning on the day the nomination of the candidate is confirmed by the returning officer
- and ending on the day that is 30 days after election day

No receipt may be issued for a contribution that was not received or in transit on election day. The official agent should issue the income tax receipt as soon as he or she accepts the contribution.

Preparing financial returns

The official agent must record all financial information for the preparation of the *Candidate's Electoral Campaign Return* (EC 20120), and for examination by the candidate's auditor.
[451, 453(1)]

2.3 Auditor

At the same time as the candidate appoints an official agent, the candidate must appoint an auditor who is qualified under the Act. A candidate can have only one auditor at a time.
[83(2), 88]

Eligibility of the auditor

Only the following are eligible to be an auditor for a candidate:
[83(2), 85(1)]

- a person who is a member in good standing of a corporation, an association or an institute of professional accountants (CA, CGA or CMA), or
- a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants

Ineligible persons

The following persons are not eligible to act as a candidate's auditor:
[85(2)]

- an election officer or a member of the staff of a returning officer
- candidates and their official agents
- the chief agent or a registered agent of a registered party or an eligible party
- electoral district agents of registered associations
- leadership contestants and their leadership campaign agents
- nomination contestants and their financial agents, or
- financial agents of registered third parties

In addition to being disqualified as a candidate's auditor, none of these individuals can participate in any other capacity in an audit, or in the preparation of an audit report, if he or she is a partner or an employee of the auditor or the firm with which the auditor is associated.
[453(5)]

For further information on who may be an auditor for a candidate, please see Information Sheet 25: *Who May Be an Auditor Under the* Canada Elections Act.

Appointment process

The appointment of the auditor must:
[86]

- be in writing
- include the auditor's name, mailing address and telephone number
- if a firm, include the name of the contact person
- include the effective date of the appointment, and
- be accompanied by the auditor's signed consent to act in this capacity

Change of auditor

If the auditor ceases to hold office for any reason or ceases to be qualified or eligible, or the appointment is revoked, the candidate must appoint a new auditor at once. The candidate must immediately notify the Chief Electoral Officer in writing of the new appointment, giving the name and permanent address of the new auditor and providing a statement from the new auditor stating his or her acceptance of the appointment.
[86, 87]

Auditor's right of access to documents

The auditor must have access, at any reasonable time, to all documents of the candidate, and may require the candidate or the candidate's official agent to provide any information or explanation that is necessary to enable the auditor to prepare the audit report.
[453(4)]

Responsibilities and obligations

To fulfill the role of auditor, the individual selected by the candidate must:

- provide a statement accepting the nomination, which is filed along with the nomination papers of the candidate
  [67(4)(*b*), 86]
- examine the books, records, invoices, bank statements and negotiated cheques, and perform the tests and verification necessary to permit the completion of the auditor's report
  [453(1)]
- prepare a report to the official agent stating whether the return accurately presents the financial transactions contained in the books and records of the candidate
  [453]
- complete the *Checklist for Audits* (EC 20011)

Auditor's fees

The Act provides for a subsidy, equal to the lesser of $1,500 or 3% of the candidate's election expenses to a minimum of $250, to be paid out of public funds directly to the auditor. If the subsidy paid to reimburse audit fees by the Receiver General is less than the total fee charged by the auditor, the candidate is responsible to pay the additional amount.
[467]

3. Nominations – procedures and fees

3.1 Nomination deposit

When a prospective candidate's nomination paper is completed, he or she must make a sworn declaration consenting to the nomination in the presence of a witness who is an elector and who files the nomination paper. At the same time as the witness files the nomination paper and other documents with the returning officer, he or she must submit a deposit of $1,000 in Canadian funds, or by money order or cheque payable to the Receiver General for Canada.
[67(4)]

📖 Transaction 8-13 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) shows how to account for the payment of the nomination deposit if the deposit is paid from the campaign bank account.

Each candidate is entitled to a full refund of his or her nomination deposit, if:

- within one month after election day, the candidate returns any unused copies of receipts valid for income tax purposes to the returning officer, and
- within four months after election day, the official agent provides the Chief Electoral Officer with the *Candidate's Electoral Campaign Return* (EC 20120), along with the official agent's and candidate's declarations and the auditor's report (including the checklist for audits – EC 20011)
  [451(4), 468, 478(2)]

3.2 Withdrawal

The official agent of a candidate who withdraws from the election must still submit the *Candidate's Electoral Campaign Return* (EC 20120) and related documentation and declarations, together with the auditor's report and *Checklist for Audits* (EC 20011). If the candidate received no contribution nor incurred any expense, the official agent must submit a return with each page marked *NIL*, the *Candidate's Statement of Personal Expenses* (EC 20220), the auditor's report and the *Checklist for Audits* (EC 20011).
[451(1)]

A candidate who withdraws from an election and has accepted gifts or other advantages in excess of $500 must still submit the *Candidate's Statement of Gifts or Other Advantages Received* (EC 20053).
[92.2(1)]

3.3 Death of a candidate

If a candidate endorsed by a registered party dies during the period beginning at 2:00 p.m. on the fifth day before the close of nominations and ending at the close of the polls on election day, the election in the electoral district is postponed. The closing day for nominations in that electoral district is then moved to the second Monday following the date of the candidate's death.
[77(1)]

When an officially nominated candidate dies before the date specified for submitting the *Candidate's Electoral Campaign Return* (EC 20120), the official agent still has the responsibility of complying with the Act. However, the official agent will not be required to file the following documents with the electoral campaign return:

- candidate's declaration
- *Candidate's Statement of Personal Expenses* (EC 20220)
  [451(1), 451(6), 456(2)]

4. Contributions and other cash inflows to the campaign

4.1 Contributions to the campaign

Definition

A contribution may be monetary or non-monetary.
[2(1) "contribution"]

Monetary contribution

A monetary contribution is an amount of money that is not repayable.
[2(1) "monetary contribution"]

Non-monetary contributions

A non-monetary contribution is the commercial value of a service, or of property or the use of property or money to the extent that they are provided without charge or at less than their commercial value.
[2(1) "non-monetary contribution"]

Illegal contributions

It is illegal for anyone to solicit or accept a contribution on behalf of a candidate if that person or organization made a representation that any part of the contribution would be transferred to a person or entity other than the registered party, a candidate, leadership contestant or electoral district association. It is also illegal for anyone to collude with someone else to circumvent this prohibition.
[405.21]

Eligible contributors

Only an individual who is a Canadian citizen, or a permanent resident of Canada as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, can make a contribution to a candidate.
[404(1)]

Subsection 2(1) of the *Immigration and Refugee Protection Act* defines a permanent resident as "a person who has acquired permanent resident status and has not subsequently lost that status under section 46." Section 46 itemizes categories of persons under the *Immigration and Refugee Protection Act* and the *Citizenship Act*. For details, consult those Acts.

A candidate must not receive an indirect contribution – one that comes from the money, property or services of another person or entity – if that other person or entity gave it to the contributor to make a contribution to the candidate.
[404(1), 405.3]

This prohibition precludes a candidate's campaign from directly contributing money, goods or services to another candidate's campaign, but does not preclude a candidate from contributing funds to another candidate, as an individual.
[405.3]

For additional information on the prohibition on making indirect contributions, please see Information Sheet 10: *Making Contributions Using Money, Property or Services Given to One by Others for that Purpose*.

Identification of contributors

The official agent must report all contributions to the candidate in the *Candidate's Electoral Campaign Return* (EC 20120).
[451(2)(*f*)]

The candidate's return must include the name and address of any contributor who makes an aggregated contribution to the candidate in excess of $200, and the amount and date on which each contribution was received.
[451(2)(*h*)]

Acceptance of a contribution

A monetary contribution is deemed to be accepted when it comes into the hands of the official agent. For a non-monetary contribution, the contribution is deemed to be accepted when the official agent authorizes the use of the property or service.
[437(3), 438(2)]

Cash contribution limit

It is prohibited for an individual to make a cash contribution in an amount that exceeds $20.
[405.31]

Ticketed fundraising functions

A ticketed fundraising activity is a function – such as a dinner or cocktail party – held by selling tickets for the purpose of soliciting contributions for a candidate. The amount of the contribution is the difference between the price of the ticket and the fair market value of what the ticket entitles the purchaser to obtain.
[408]

The official agent must issue a receipt for the contribution portion of the admission price. This amount is a contribution made by the contributor. For all single or aggregate contributions over $200, the official agent must report the name and address of the contributor, as well as the amount of the contribution.
[2(1) "contribution", 408]

For example, if the official agent organizes a dinner with a fair market value of $45 per attendee, and charges $250 for admission to the function, he or she must issue a receipt for $205 to each person purchasing a ticket. The official agent must record in **part 2a** of the candidate's return the name, address and the amount of $205 as a contribution for each individual purchasing a ticket. The difference between the ticket price and the contribution is reported as "other cash inflow" in **part 2e**.

The expenses incurred in holding a ticketed fundraising function, other than promotional material, are not deemed to be election expenses, provided that a fixed charge is made for admission and that this charge exceeds the fair market value of what the ticket entitles the person to obtain.
[407(2)]

Volunteer labour is **not** considered a non-monetary contribution. Volunteer labour is defined as "any service provided free of charge by a person outside their working hours, but [it] does not include such a service provided by a person who is self-employed if the service is one that is normally charged for by that person."
[2(1) "volunteer labour"]

Assets

Candidates and official agents may use assets (such as computers) during an election. The value of the assets used, and the expense to be recorded, must reflect the commercial value of the use. Commercial value is defined in the next section.

Asset received in the form of a contribution or transfer to the campaign

If an asset is received by the campaign in the form of a contribution or transfer, the amount to be recorded as a contribution or transfer must be the full commercial value of the asset. However, the amount to be reported as an election expense subject to the limit must be the equivalent commercial value of renting a similar asset for the same period during the election.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Commercial value

Commercial value is defined as the lowest amount charged at the time that a property or service was provided for the same kind and quantity of property or service, or for the same usage of property or money, by:

- the person who provided it, if the person is in the business of providing that property or service, or
- another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business

When goods or services are provided without charge or for less than commercial value, and the goods or services are used directly to promote the candidate during an election period, the official agent must record the commercial value of the goods or services as an election expense of the candidate, as well as a contribution.
[2(1) "commercial value", 407(1)]

However, the commercial value of goods or services with a value of $200 or less that are provided free of charge by a person who does not supply these goods or services commercially is deemed to be nil – it is neither a contribution nor an expense.
[2(2)]

For example, if a homeowner who is not a contractor supplies construction material worth $175 left over from the renovation of his or her home, the goods would not be considered an election expense or a contribution.

When a contribution of goods or services is made, the official agent must issue a receipt for and record such contributions in the candidate's return, at commercial value.

Miscellaneous contributions

Contributions by the candidate

A candidate is permitted to contribute to his or her own campaign through the official agent.
[404.2]

Any money that is used for a candidate's campaign out of the candidate's own funds is considered to be a contribution.

Unpaid claims

With some exceptions, if an unpaid claim remains wholly or partly unpaid on the day that is 18 months after election day, it is deemed to be a contribution to the candidate made on the day on which the expense was incurred and is subject to the contribution limits.
[450(1)]

Contribution limits

Any individual who is a Canadian citizen or permanent resident of Canada may make these contributions:

- up to $1,000 in total in any calendar year to a particular registered party
- up to $1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party
- up to $1,000 in total to a candidate for a particular election who does not represent a registered political party
- up to $1,000 in total to the contestants in a particular leadership contest [405(1)]

The Act provides for maximum contribution limits of $1,000, subject to an inflation adjustment on April 1 of each year. On January 1, 2007, the contribution limits were adjusted by the April 1, 2006, inflation factor and therefore established at $1,100. For more information on current contribution limits, go to www.elections.ca > Election Financing > General Information on Election Financing > Limits on Contributions.
[405.1]

There is no limit to a contribution made in an individual's will as an unconditional, non-discretionary testamentary disposition.
[405(2)]

Additional contribution limit for candidates

A candidate or nomination contestant may contribute an additional $1,000 out of his or her own funds to his or her own campaign without it counting against his or her contribution limit. This additional contribution **is not** subject to the inflation adjustment factor.
[404.2(1), 405(4)]

Responsibilities concerning contribution limits

The official agent must not knowingly accept contributions that exceed limits set forth in the Act. However, the official agent is not personally responsible for verifying that contributors have not exceeded their total contribution limit for the year when accepting contributions from them.
[405.2(3)]

Official tax receipts

The official agent may issue receipts valid for income tax purposes for monetary contributions received in the period:

- beginning on the day that the nomination of the candidate is confirmed by the returning officer
- and ending on the day that is 30 days after election day

No receipt may be issued for a contribution that was not received or in transit on election day. The official agent should issue the income tax receipt as soon as he or she accepts the contribution.

Outside an election period, only a registered agent of a registered party or a registered association, if authorized, may issue receipts valid for income tax purposes for monetary contributions to the registered party or registered association.

For further information about issuing receipts valid for income tax purposes, see the information circular published by the Canada Revenue Agency, IC 75-2R7 *Contributions to a Registered Party, A Registered Association, or to a Candidate at a Federal Election*. The circular is included in the candidate's election kit distributed by returning officers to candidates whose nominations have been confirmed, or can be obtained at www.elections.ca.

No official tax receipts

The *Income Tax Act* prohibits issuing receipts valid for income tax purposes for non-monetary contributions.
[*Income Tax Act*]

Tax credits for contributors

Subsections 127(3) through 127(4.1) of the *Income Tax Act* provide that tax credits may be claimed for contributions of money to confirmed candidates during an election as follows:

- 75% of the first $400,
- 50% of the next $350, and
- 33⅓% of the amount over $750.

Official tax receipt form

The Chief Electoral Officer provides a supply of official tax receipts for use by official agents. The receipts are pre-numbered and must be accounted for at the end of the campaign. An official agent may only issue official tax receipts for qualifying monetary contributions.
[438(3), 477]

Contributors to a candidate can obtain a duplicate receipt from the official agent only when the original is returned to the official agent because it was completed in error or damaged, and only during the period when the official agent has unused official receipts in his or her possession. In any other circumstances, such as when a receipt is lost, a duplicate may be obtained from the Chief Electoral Officer if a request is submitted in writing by the official agent of the candidate.

Obtaining official tax receipts

The returning officer will provide official tax receipts to official agents only after the candidate's nomination has been confirmed. If more receipts are needed, the returning officer will provide them until 30 days after election day.
[478(1)]

Deadline for returning official tax receipts

The unused receipts and the "Returning Officer Copy" must be returned by the official agent to the returning officer no later than 30 days after election day. In addition, the official agent must send the "Chief Electoral Officer Copy" of the official tax receipts to the Chief Electoral Officer. The nomination deposit will not be reimbursed if this requirement is not met.
[468, 478(2)]

Report to the Canada Revenue Agency

Within four months after election day, the official agent must submit a return to the Canada Revenue Agency concerning contributions received. This return is in the candidate's kit provided by the returning officer or can be obtained at www.elections.ca.
[*Income Tax Act*]

Anonymous and ineligible contributions

Anonymous contributions

The following are anonymous contributions, either monetary or non-monetary:
[452]

- contributions exceeding $20 for which the official agent does not have the name of the contributor
- contributions exceeding $200 for which the official agent does not have the name and address of the contributor

The official agent must, without delay, pay the amount of any anonymous contribution – or in the case of an anonymous non-monetary contribution, an amount equal to its value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.
[452]

Any anonymous contribution that was accepted by the official agent must also be disclosed in **part 2c** of the *Candidate's Electoral Campaign Return* (EC 20120).
[451(2)(*k*)]

Anonymous contributions of $20 or less may be solicited at a meeting through a "collection plate" or by "passing the hat." Where this occurs, the official agent must record the following:

- a description of the function at which the contributions were collected
- the date of the function
- the approximate number of people at the function
- the total amount of anonymous contributions accepted

However, the official agent must take measures to ensure that he or she does not accept contributions from ineligible contributors.

To record this information, the official agent may wish to use the *General Solicitation Contributions Record Keeping – Anonymous Contributions of $20 or Less* (EC 20154) document, which appears in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).
[404.4(2)]

The official agent must enter the total of contributions received from such a collection under the category "Anonymous contributions from general solicitation at a meeting or fundraising event of $20 or less" in **part 2a** of the *Candidate's Electoral Campaign Return* (EC 20120).
[451(2)(*f*)]

If it is apparent that someone placed an amount exceeding $20 in the collection, then the official agent must treat that contribution as anonymous, and return it or forward it to the Chief Electoral Officer as described above.

Ineligible contributions

The following are ineligible contributions, either monetary or non-monetary:
[404(1), 405(1), 405.1]

- contributions from individuals who are not Canadian citizens or permanent residents as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*
- contributions from corporations
- contributions from trade unions
- contributions from unincorporated associations
- contributions in excess of the contribution limits set out in the Act

An official agent must return an ineligible contribution unused to the contributor within 30 days after becoming aware of the ineligibility.
[404(2)]

If it is not possible for the official agent to return an ineligible contribution to the contributor, the official agent must pay the amount of it – or in the case of a non-monetary contribution, an amount equal to its commercial value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.
[404(2)]

The official agent must also disclose any returned or forwarded contributions that were received in **part 2c** of the *Candidate's Electoral Campaign Return* (EC 20120).
[451(2)(*k*)]

4.2 Loans

Interest on loans incurred between the issue of the writ and election day is an election expense, whether it is paid or accrued.
[407]

If the interest rate being charged on a loan is less than a commercial interest rate, the official agent must record a non-monetary contribution from the lender equal to the forgone interest on the loan.

The full name and address of the lender and name of the guarantor, if applicable, for all loans given to the campaign, amount of interest or discount and the principal of the loan must be disclosed in the *Candidate's Electoral Campaign Return* (EC 20120). Furthermore, any loan payment that is overdue four months or more after election day should be treated as an unpaid claim. To help account for loans and the associated interest expense properly, please refer to the *Loans Control Sheet* (EC 20156), which is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).
[445(1), 451(3)]

If an overdraft or line of credit was used, the name and address of the financial institution, the interest rate, and the maximum amount drawn on the overdraft or line of credit must be reported in the *Candidate's Electoral Campaign Return* (EC 20120).

4.3 Transfers from registered parties, registered associations and nomination contestants

The following transfers are not considered contributions from the time the nomination of the prospective candidate has been confirmed by the returning officer:

- provision of goods or services or a transfer of funds, other than trust funds, from a registered party or any registered association of the registered party
- a transfer of funds from a nomination contestant in the electoral district in which the nomination contest was held to the candidate endorsed by the registered party
  [404.2(2), 404.2(3)]

The official agent must include the amount and date of these transactions, classified as transfers, in **part 2d** of the *Candidate's Electoral Campaign Return* (EC 20120). The following are examples of transfers to a candidate that are to be reported as such in part 2d:
[404.2(2), 404.2(3)]

- transfers of funds from a registered party, registered association or from a nomination contestant
- the difference between the normal commercial value of merchandise (such as printing and office supplies) and the price charged to the official agent by the registered party or registered association
- the regular salary of employees of the party or other individuals assigned by a party to assist the candidate in his or her campaign

No registered agent of a registered party and no financial agent of a registered association or of a nomination contestant may transfer funds to a candidate after election day, except to pay claims related to the candidate's electoral campaign. [476]

5. Electoral campaign expenses

An electoral campaign expense of a candidate is an expense reasonably incurred as an incidence of the election, such as:
[406]

- an election expense
- a personal expense
- any fees of the candidate's auditor, and any cost incurred for a recount of votes cast in the candidate's electoral district that have not been reimbursed by the Receiver General

5.1 Election expenses

An "election expense" includes any cost incurred, or non-monetary contribution received by a candidate, to the extent that the property or service for which the cost was incurred, or the non-monetary contribution received, is used directly to promote or oppose a candidate during an election period.
[407(1)]

"Election period" means the period beginning with the issue of the writ, and ending on election day or on the day that the writ is withdrawn or deemed to be withdrawn.
[2(1) "election period"]

"Cost incurred" refers to an expense that is incurred, whether it is paid or unpaid.
[407(4)]

Expenses that meet the definition

To be considered an election expense, a good or service, whether purchased or donated, must directly promote or oppose a candidate during an election.
[407(1)]

Examples of election expenses include:
[407(3)]

- the production of advertising or promotional material and its distribution, broadcast or publication in any media or by any other means
- the payment of remuneration and expenses to, or on behalf of, a person for his or her services as an official agent, registered agent, or in any other capacity, with the exception of candidates' agents at the polls
- the cost of securing a meeting space or supplying light refreshment at meetings
- the conduct of election surveys or other surveys or research during an election period

Election expenses limit

The Act imposes a limit on the election expenses that a candidate may incur during an election.
[440]

Since it is an offence for a candidate and an official agent to exceed the election expenses limit, the official agent should closely monitor any spending on election expenses.
[497(1)(*s*), 497(3)(*p*), 502(1)(*c*)]

Calculation of spending limits

Four steps are involved in determining the election expenses limits.

Step 1: Number of names on the lists of electors

Spending limits are based on the number of names appearing on the preliminary lists of electors or on the revised lists of electors for the electoral district, whichever is greater. The Chief Electoral Officer publishes in the *Canada Gazette* not later than the 31st day before election day the number of names on the preliminary lists of electors, and no later than the 7th day before election day the number of names on the revised lists of electors.
[93(3), 105(2), 441(1)]

The limit is calculated as follows:
[441(3), 441(7)]

- $2.07 for each of the first 15,000 electors
- $1.04 for each of the next 10,000 electors
- $0.52 for each elector over 25,000

Step 2: Adjustments for electoral districts in which the number of electors is below the national average

The Act provides higher limits for candidates running in electoral districts where there are fewer electors than the national average. This adjustment adds to the actual number of names for the electoral district.
[441(4), 441(8)]

Step 3: Adjustments for geographically large electoral districts

If the number of electors per square kilometre of the electoral district is less than 10, the candidate's spending limit is increased by the lesser of $0.31 per square kilometre or 25% of the amount calculated in step 1 above.
[441(6), 441(10)]

Step 4: Indexing of limit

The limit determined by steps 1–3 above is then adjusted by the inflation adjustment factor in effect as of the day of the issue of the writ.
[414, 440]

Death of a candidate

If an election is postponed following the death of a candidate endorsed by a registered party, all candidates at this postponed election are entitled to election expenses limits equal to one and one-half times the amount normally stipulated.
[441(2)]

Notification of spending limits

Following the publication of the number of names on the preliminary lists of electors, the Chief Electoral Officer notifies each returning officer of the spending limits applicable to his or her electoral district. In turn, the returning officer advises each campaign of the spending limit. Following the publication of the number of names on the revised list of electors, the Chief Electoral Officer advises candidates directly of any revisions to their spending limits. This information is also available on the Elections Canada Web site at www.elections.ca.

Volunteer labour

Volunteer labour is any service provided free of charge by someone outside of the person's normal working hours. It does not include service provided by a person who is self-employed if the service is one that is normally charged for by the volunteer. The commercial value of volunteer labour need not be reported.
[2(1) "volunteer labour"]

Examples of volunteer labour are:

- a sign painter who is not self-employed working outside his or her normal working hours painting signs for the campaign
- a secretary employed by a local business, who is on an annual leave or compensatory leave, working as a secretary in the campaign office
- a self-employed insurance salesman working for the campaign free of charge doing door-to-door canvassing
- unemployed or retired persons working anytime

The service of a person who is self-employed is not volunteer labour if the service is one for which that person normally charges. For example, the official agent must report as a contribution and an election expense the donated labour of a self-employed printer who prints material free of charge that directly promotes the candidate. The commercial value of this material is a contribution and an election expense from the first dollar, and must be authorized by the official agent.
[2(2)]

Actual incidental expenses of volunteers for things such as meals, lodging and transportation, if paid by the campaign, are considered election expenses if incurred during the election period. These expenses must be reported as such in the *Candidate's Electoral Campaign Return* (EC 20120) and supported by vouchers. Travelling costs of volunteers for travel on the campaign accounted for on a kilometre basis are also considered election expenses if incurred during the election period, provided they are supported by a log.

If the volunteer pays for actual incidental expenses incurred during the election period, then these amounts must be reported as a non-monetary contribution and an election expense. However, the Act considers goods or services valued at less than $200, if donated by a person who is not in the business of providing those goods or services, to have no commercial value, and in such a case, neither a contribution nor an expense must be reported.
[2(2), 407(1)]

Expenses of senators and elected members

If a senator or a person who is (or was, during the last session) an elected member of the House of Commons or any provincial legislature campaigns on behalf of a candidate, the expenses related to that person's involvement in the campaign are election expenses of the candidate and must be authorized beforehand by the official agent.
[407(1)]

For example, if a minister or other member of Parliament travels from Ottawa to a candidate's electoral district to assist in the candidate's campaign, the costs of travelling to the electoral district and the costs of accommodation and transportation within the electoral district are election expenses of the candidate.

Alternatively, if travel to the candidate's electoral district includes official ministerial business above and beyond assisting in the candidate's campaign, a proportion of the cost of the trip must be allocated as an election expense of the candidate. This allocation should be made on the basis of the proportion of time spent working on each activity. Elections Canada will accept the basis of allocation used by the official agent, provided that it is reasonable in the opinion of the Chief Electoral Officer, and provided that the auditor attests that the allocation is reasonable and in keeping with this handbook and the *Canada Elections Act*.

It is important to note that expenses of senators and elected members incurred while campaigning for a candidate must be paid by the official agent, because senators and elected members of Parliament are not eligible contributors to a candidate's campaign, other than in their capacity as individuals, and are subject to the contribution limits.
[404(1), 404.1(3)]

Exempt staff of ministers; party leaders and party employees

If members of the exempt staff of ministers and employees of party leaders and parties engage in political activities, the costs related to the involvement of those persons in the campaign during normal working hours are election expenses. It is important to note that expenses related to staff employed in these categories while involved in the campaign of a candidate must be paid by the official agent, because they are not eligible contributors to a candidate's campaign, other than in their capacity as individuals, and are subject to the contribution limits.
[404(1), 404.1(3), 407(1)]

Before undertaking campaign work, however, exempt staff of ministers should check the rules governing their political activities.

Candidate's representatives at the polls

Unremunerated candidate's representatives at the polls (also known as poll agents or scrutineers) are volunteer labour and are not election expenses. However, the payment by the campaign of any of their incidental expenses would be considered an election expense of the candidate (see section 5.2 below). Any amount paid for the remuneration of poll agents is deemed a personal expense of the candidate.
[409.1]

Assets and other items

Candidates and official agents may use assets (such as computers) during an election. The value of the assets used, and the expense to be recorded, must reflect the commercial value of the use. Commercial value is defined later in this section.

Asset purchased by the campaign

If an asset is purchased by the campaign and used during the election, the value of the asset for the purpose of calculating the amount of the election expense subject to the limit must be the equivalent commercial value of renting a similar asset for the same period during the election.

Asset received in the form of a contribution or transfer

Similarly, if an asset is received by the campaign in the form of a contribution or transfer, the amount to be recorded as a contribution or transfer must be the commercial value of the asset. However, the amount to be reported as an election expense subject to the limit must be the equivalent commercial value of renting a similar asset for the same period during the election.

Low-value items

It is important to note that for low-value items purchased such as office supplies, the full cost (commercial value) of the item must be recorded as an election expense if used during the election period.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Installation charges and other expenses to set up an office

Installation costs incurred for items used during the election period are election expenses if the item itself is an election expense. For example, the full installation costs of telephones, computers, faxes, etc. are election expenses and cannot be pro-rated between pre- and post-event periods regardless of when the installation takes place.

Similarly, expenses incurred to set up an office that are necessary to make it functional (e.g. leasehold improvements) are election expenses and cannot be pro-rated.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Election advertising

Election advertising means the transmission to the public by any means during an election period of an advertising message that promotes or opposes a candidate, including one that takes a position on an issue with which a registered party or candidate is associated. Election advertising includes articles such as billboards, bus signs, pamphlets, lawn signs, flyers, stickers, lapel buttons or pins, T-shirts and caps, among others.
[319]

Identification of election advertising

All election advertising that promotes or opposes a candidate, including taking a position on an issue with which a registered party or candidate is associated, must indicate who authorized it (e.g. if promoting or opposing a candidate in his or her

own electoral district, it must be authorized by the official agent of the candidate).
[320]

For example, a pamphlet promoting candidate Jane Brown should display the following message: *Authorized by the official agent of Jane Brown.*

Rates charged for advertising

Candidates are entitled to the lowest rate made available to any advertiser for the same amount of broadcasting time purchased during the period. For example, when a candidate purchases 20 minutes of time for 40 commercials in a certain time slot, he or she is entitled to the lowest rate that any other advertiser would pay for those commercials, during the same time slot.
[348(*a*)]

Similarly, in the print media a candidate must be charged the lowest rate that would be charged to any other advertiser for the same amount of space during the permitted period. For example, a candidate purchasing 500 agate lines of advertisements on 10 different occasions should not be charged a higher rate than any other advertiser purchasing the same amount of space under the same conditions.
[348(*b*)]

The full cost of advertising conducted during an election, including the production costs, is to be reported as an election expense.

Commercial value

Commercial value is defined as the lowest amount charged at the time that a property or service was provided for the same kind and quantity of property or service, or for the same usage of property or money, by:

- the person who provided it, if the person is in the business of providing that property or service, or
- another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business

When goods or services are provided without charge or for less than commercial value and the goods or services are used directly to promote the candidate during an election period, the official agent must record the commercial value of the goods or services as an election expense of the candidate, as well as a contribution.
[2(1) "commercial value", 407(1)]

However, the commercial value of goods or services with a value of $200 or less that are provided free of charge by a person who does not supply these goods or services commercially is deemed to be nil – it is neither a contribution nor an expense.
[2(2)]

For example, if a homeowner who is not a contractor supplies construction material worth $175 left over from the renovation of his or her home, the goods would not be considered an election expense or a contribution.

When a contribution of goods or services is made, the official agent must issue a receipt for and record such contributions in the candidate's return, at commercial value.

Commercial value of used signs

Some signs can be used for more than one election. If a campaign uses signs in a second or subsequent election, the amount that the official agent should record as a non-monetary contribution or transfer and an election expense is the current commercial value for similar signs. If the campaign refurbishes, restores or repaints used signs, the value that the official agent should record is the amount it would cost to purchase a sign similar to the restored sign.
[2(1) "commercial value", 407(1)]

Payment of accounts

Liability for contracts

Unless a contract is entered into by the candidate, the candidate's official agent or a person authorized in writing by the official agent, a person who has a claim cannot demand payment from the candidate. All bills for election-related expenses are the responsibility of the candidate, with the exception of any overpayment in the reimbursement of paid election expenses and paid personal expenses of the candidate, which is the personal responsibility of the official agent. The official agent is not personally responsible for campaign debts.
[446, 464(3)]

For instance, a contract to purchase radio advertising time entered into by a campaign official who did not have the official agent's authorization would not be the responsibility of the official agent at the end of the campaign if this expense remained unpaid.

An executory contract cannot be enforced unless a note signed by the candidate or official agent supports it. A contract is an executory contract if its completion depends on the performance of one of the terms of the contract at some time in the future.
[446]

Presentation of accounts

Within three months after election day, a person who has a claim to be paid for an electoral campaign expense must send the invoice or other document supporting the claim to the candidate's official agent, or to the candidate if there is no official agent.
[444(1)]

A person who has a claim is barred from recovering a claim to be paid if he or she sends the invoice or other document supporting the claim more than three months after the election, unless the claimant, the candidate or the official agent applies for, and is granted, an authorization from the Chief Electoral Officer for the late submission.
[444(2), 447(1)]

Any official agent who pays a late invoice without an authorization is in contravention of the Act.
[497(1)(*f*)]

If a person who has a claim dies before the end of the three-month period without having sent the invoice or other document supporting the claim, a new three-month period begins on the day on which the claimant's legal representative becomes entitled to act for the claimant.
[444(3)]

Deadline for payment

The official agent must pay all expenses incurred in the conduct or management of an election within four months after election day.
[445(1)]

It is an offence for the official agent to pay invoices after those four months without an authorization.
[445(1), 497(1)(*f*)]

Authorizing payment of unpaid claims

If an official agent has not paid an invoice within four months after the election, or if the invoice was not sent within three months after the election, the unpaid claim can only be paid following an authorization from the Chief Electoral Officer obtained by the candidate, the official agent or the person who has a claim. This authorization is requested by filing a *Request for the Chief Electoral Officer's Authorization to Pay an Unpaid Claim* (EC 20158), which is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).
[447]

If the Chief Electoral Officer refuses an authorization, or its conditions cannot be met, the candidate, the official agent or the person who has a claim may apply to a judge to authorize the payment of a claim by the candidate through the official agent.
[448]

Payment of unpaid claims

When the Chief Electoral Officer authorizes a claim to be paid, the official agent, after submitting the candidate's return, must then submit to the Chief Electoral Officer an updated version of the *Candidate's Electoral Campaign Return* (EC 20120) within 30 days after making the payment.
[455(1)]

With some exceptions, if an unpaid claim remains unpaid (in whole or in part) on the day that is 18 months after election day for the election to which the return relates, that unpaid claim is deemed to be a contribution to the candidate made as of the day on which the expense was incurred, and is subject to the contribution limits. This information will be published by the Chief Electoral Officer.
[450]

Disclosure and reporting requirements

General

If an electoral campaign expense of $50 or more is incurred by the candidate, or on behalf of the candidate by the official agent or by a person authorized in writing by the official agent, the official agent must keep a copy of the invoice prepared by the person who provided the goods or services to which the expense relates, together with proof that it was paid. A *Voucher Cover Template* to help the official agent in organizing the campaign vouchers is included in the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151).
[410(1)]

If an electoral campaign expense of less than $50 is incurred on behalf of the candidate by the official agent or a person authorized in writing by the official agent, the person who made the payment must keep a record of the nature of the expense, together with proof that it was paid.
[410(2)]

Non-monetary contributions

When an official agent receives a non-monetary contribution from a donor, the official agent must obtain complete documentation about the commercial value of the goods or services donated, and the name and address of the donor, so that the contribution may be (subject to its commercial value) reported in the *Candidate's Electoral Campaign Return* (EC 20120) as a contribution and as an expense. "Gifts and other advantages" are reported separately in the *Candidate's Statement of Gifts*

or Other Advantages Received (EC 20053).
[2(1) "commercial value", 2(2), 451(1)(*a*)]

Supporting documentation

Together with the *Candidate's Electoral Campaign Return* (EC 20120) and its accompanying declarations and auditor's report, the official agent must file with the Chief Electoral Officer within four months after election day:

- all documents evidencing expenses set out in the return, including bank statements, deposit slips and cancelled cheques
- the *Candidate's Statement of Personal Expenses* (EC 20220)
- all of the campaign auditor's documents
  [451(2.1)]

5.2 Candidate's personal expenses

Incremental concept

Personal expenses of a candidate are electoral campaign expenses, other than election expenses, that are reasonably incurred in relation to his or her campaign. These expenses are not subject to the election expenses limit.
[409(1)]

Other campaign workers may use the goods or services acquired for the use of the candidate, provided that there are no additional costs involved. However, in any situation, if costs are incurred during the election period in excess of what the candidate would normally incur because of the involvement of campaign workers, these additional costs will have to be charged as an election expense subject to the spending limit.
[407(3)(*b*)]

For example, if the official agent rents a minibus for the candidate and several campaign workers, the official agent must charge, as an election expense subject to the limit, the difference between the commercial value of renting a normal passenger car and the commercial value of the vehicle actually rented.

Personal expenses include incremental expenses: expenses that a candidate would not normally incur had there not been an election. For example, the costs of day-to-day meals at home are not related to a campaign, whereas a candidate who had to relocate because of the campaign might incur incremental expenses for the costs of meals.

In all cases, the amounts charged as personal expenses of the candidate must be incremental, reasonable and incurred by the candidate or by the official agent for the benefit of only the candidate. The Chief Electoral Officer will review the expenses to

determine if they are reasonable.
[409(1)]

Categories

The categories of personal expenses of the candidate are:

- transportation costs to the electoral district
  [409(1)(*a*)]
- transportation costs within the electoral district
  [409(1)(*a*)]
- costs of temporary lodging necessary for the election
  [409(1)(*a*)]
- costs of meals and incidental expenses related to the campaign
  [409(1)(*a*)]
- remuneration paid to agents representing the candidate at polling stations
  [409.1]
- all other necessary related personal expenses, including childcare expenses, expenses relating to the provision of care for a person with a physical or mental incapacity for whom the candidate normally provides such care, and in the case of a candidate who has a disability, personal expenses that are related to the disability and that are incurred as a result of the campaign
  [409(1)(*b*), 409(1)(*c*), 409(1)(*d*)]

For more detail on these categories, see the *Candidate's Statement of Personal Expenses* (EC 20220) in the candidate's kit.

Transactions 10-1 through 10-4 in the *Candidate's Electoral Campaign Return – Specimen* (EC 20120-A) outline the treatment of personal expenses incurred by the candidate.

5.3 Amounts not included in election expenses

Certain expenses incurred for the campaign are not to be included as election expenses and are not subject to the spending limit.
[406, 407(1)]

Pre-writ expenses

Any expense incurred for goods and services consumed before the issue of the writ is not an election expense.
[407(1)]

For example, the cost of a flyer distributed before the issue of the writ is not an election expense.

The cost of promotional material sent by mail before the issue of the writs and distributed during the election period, but over which the candidate has no possible control when the election is called, would not be an election expense. The important consideration in these cases is the control of the candidate or official agent over the distribution after the issue of the writ.
[407(1)]

Nomination expenses

During an election, the expenses incurred for a candidate's nomination – other than costs incurred for the production of advertising or promotional material and its distribution, broadcast or publication in any media or by any other means – are not election expenses.
[407(2)]

Notices of nomination meetings must be limited to 1% of the election expenses limit at the last general election in the same electoral district. If the boundaries of the electoral district have changed since the preceding general election, the 1% limit for that electoral district is based on an amount determined by the Chief Electoral Officer. Further information on this amount is available from the returning officer or Elections Canada. The information is also available on Elections Canada's Web site at www.elections.ca.
[439(1)]

A notice of a nomination meeting should only identify the party organization and state the purpose, date, time and location of the meeting.

Fundraising expenses

The official agent must authorize expenses incurred for fundraising activities. These expenses, other than those for promotional material and distribution, are not election expenses.
[407(2), 438(5)]

Note that any fundraising expenses that incorporate the promotion or the opposition of a candidate will be considered election expenses subject to the limit.
[407(1), 407(2)]

Unused inventory

Any material that was never used during the election period and remains on hand at the end of the election does not promote or oppose the election of a candidate, and hence is not an election expense. This material should be considered as an electoral campaign expense other than an election expense and retained, since it is subject to examination by the auditor. The cost of any unused inventory will be considered in the calculation of the surplus. Therefore the unused inventory must be sold at its commercial value or transferred to the registered party or registered association.
[407(1)]

Other excluded expenses

The following types of expenses are not included as election expenses:
[407(1)]

- nomination deposit
- cost of victory parties held after the close of polls on election day
- legal costs for recounts
- charges by lawyers for legal services
- proportion of rent and other costs of campaign offices before the writ is issued and after election day
- interest on loans payable for the period after election day during which the loans are still outstanding
- costs associated with preparing the various reports required by the Act, other than the payment of remuneration to a person for his or her services as an official agent during an election period

5.4 Reimbursements

Maximum reimbursement of election expenses

A candidate who is elected or receives at least 10% of the valid votes cast at the election is entitled to a reimbursement of 60% of the actual paid election expenses and the paid personal expenses, to a maximum of 60% of the election expenses limit. The Receiver General will make the reimbursement cheque payable to the official agent, except when the official agent designates another person as the recipient.
[464, 465]

If an officially nominated candidate dies after the close of nominations but before the closing of the polls, the deceased candidate is deemed to have obtained 10% of the valid votes cast and qualifies for a reimbursement of election expenses paid and personal expenses paid, and a full reimbursement of the candidate's nomination deposit. Both reimbursements are payable to the official agent or the person

designated by the official agent.
[468, 469]

Candidates may qualify for an additional payment. When election expenses are paid in accordance with the Act and the necessary updated version of the return is filed with the Chief Electoral Officer following the filing of the initial return, the official agent, or a person designated by the official agent, may receive a further reimbursement of 60% of the additional election expenses paid. However, this reimbursement is paid only if the candidate qualifies for the original reimbursement and if that additional reimbursement does not bring the total reimbursement to more than 60% of the maximum election expenses allowed.
[465]

Only paid expenses are reimbursable

Only election expenses paid from the campaign bank account and paid personal expenses of the candidate are included in the calculation of the reimbursement.
[438(2), 438(4), 465]

Instalments

The Receiver General for Canada issues a cheque to the official agent, or a person designated by the official agent, for the reimbursement of election expenses and personal expenses as follows:
[464(2), 465(3)]

- 15% of the maximum election expenses allowed, as soon as the Chief Electoral Officer has received the return of the writ for the electoral district from the returning officer
  [464(1)]
- the balance of the reimbursement, on receipt of the *Candidate's Electoral Campaign Return* (EC 20120) and on confirmation of compliance with the relevant provisions of the Act within four months after election day
  [465(1)]

If the amount of the first payment is more than 60% of actual paid election expenses and paid candidate personal expenses, the official agent will be required to reimburse the excess.
[464(3)]

Repayment of nomination deposit

Every candidate – including one who withdraws by 5:00 p.m. on the day that nominations close – is entitled to a full refund of his or her deposit, provided that:

- within one month after election day, the official agent returns the unused official tax receipts to the returning officer

- the official agent complies with the reporting requirements under the Act: that is, the official agent sends the *Candidate's Electoral Campaign Return* (EC 20120) and related documents to the Chief Electoral Officer in accordance with the time limits in the law

The Receiver General can issue a refund cheque to the official agent, or to a person designated by the official agent.
[468(1), 468(2), 478(2)]

Payment of auditor

On receipt of the candidate's return, including the auditor's report and his or her invoice for that report in an amount of $250 or more, the Chief Electoral Officer will authorize payment of a subsidy of the auditor's fees. This subsidy cannot exceed 3% of the election expenses of the candidate, to a maximum of $1,500.
[466, 467]

Candidates are responsible for paying any fees charged by their auditors that are in excess of the subsidy provided by the Chief Electoral Officer. Elections Canada recommends that candidates have the auditor confirm the audit fees in writing, on appointment of the auditor.
[406(*c*)]

Cost of recount

In some cases, a candidate may apply to the Chief Electoral Officer for reimbursement of the costs actually and reasonably incurred for a recount, up to a maximum of $500 for any day that the judge certifies he or she spent carrying out the recount.
[310]

Recounts can occur in one of two ways:

- automatically within four days after the validation of the results if the number of votes separating the candidate receiving the highest number of votes and any other candidate is less than 1/1000 of the votes cast, or
  [300(1)]
- on the application of an elector, including a candidate (since the candidate must be qualified as an elector), within four days after the validation of the results
  [301(1)]

6. Campaign reporting requirements

6.1 The reporting process

All disbursements related to the election must be reported by the official agent, whether or not they are election expenses.
[451]

The official agent makes all entries in the *Candidate's Electoral Campaign Return* (EC 20120) and as soon as possible transmits these documents to the auditor, along with the *Candidate's Statement of Personal Expenses* (EC 20220). The official agent must give the auditor sufficient time to perform the audit before the deadline for submitting the return to the Chief Electoral Officer.

After the auditor has performed the audit and the official agent has made any necessary changes in the *Candidate's Electoral Campaign Return* (EC 20120), the official agent can then finalize the *Candidate's Electoral Campaign Return* (EC 20120), ensuring that he or she makes no changes to the final figures unless he or she has consulted the auditor. The official agent should then submit the completed return to the auditor for final verification to permit completion of the audit report.

The necessary detailed forms for completing the return are included in the electronic kit provided by the returning officer to the official agent at the time of the candidate's confirmation of nomination. An electronic version of the return is also included in the candidate's kit.

After the period of four months provided for the submission of the *Candidate's Electoral Campaign Return* (EC 20120), the Chief Electoral Officer publishes the candidate's return in a manner that he or she considers appropriate – generally on the Elections Canada Web site (www.elections.ca).
[412]

The candidate must also report gifts or other advantages in the *Candidate's Statement of Gifts or Other Advantages* (EC 20053) (see chapter 7 of this handbook).
[92.5]

6.2 Contents of the *Candidate's Electoral Campaign Return*

The *Candidate's Electoral Campaign Return* (EC 20120), which the official agent must send within four months after election day to the Chief Electoral Officer, consists of four main parts.

Part 1 – Declaration

This part contains the sworn statements of the candidate and the official agent regarding the completeness and the accuracy of the return, and lists the documents being submitted as part of the return.
[451(1)(*d*), 451(1)(*e*)]

Part 2a – Statement of contributions received

This part lists all contributions received from individuals, including:

- the date each contribution was received
- the individual's name and address
- the amount of all aggregated monetary and non-monetary contributions over $200
- the amount and number of all monetary and non-monetary contributions of $200 or less
- the amount and approximate number of anonymous monetary and non-monetary contributions of $20 or less
  [451(2)(*f*), 451(2)(*g*), 451(2)(*h*)]

Part 2b – Statement of contributions received – Details of operating loans

This part lists the name and address of each lender, as well as the date, the interest rate and the principal of the loan.
[451(2)(*f*), 451(3)]

Part 2c – Statement of contributions received – Contributions returned to donor or otherwise dealt with in accordance with the Act

This part lists the name and address of contributors, and the amount of the contribution or the commercial value of the property or service granted by suppliers that were accepted by the official agent and subsequently returned to the donor or remitted to the Chief Electoral Officer. The official agent must also indicate the dates on which the contributions were received and returned or remitted.
[451(2)(*k*)]

Part 2d – Statement of transfers received

This part provides details of monetary and non-monetary transfers from registered parties, registered associations and nomination contestants.
[451(2)(*j*)]

Part 2e – Statement of cash inflows other than contributions, loans and transfers

This part provides details of cash inflows other than contributions, loans and transfers. In particular, this form shows the non-contribution portion of fundraiser revenue, bank interest, refunds from suppliers, the returned portion of any cash advances, the proceeds from the sale of residual assets, and other sources of cash inflows.
[471(2)(*d*)]

Part 2f – Summary of contributions, loans, transfers and other cash inflows

This part summarizes all contributions, loans and transfers received (money, property, services and discounts). It also includes a summary of the other cash inflows from the campaign.
[451(2)(*f*), 451(2)(*g*), 451(2)(*h*), 451(2)(*j*), 451(2)(*k*), 451(3), 471(2)(*d*)]

Part 3a – Statement of electoral campaign expenses

This part lists all of the electoral campaign expenses of the candidate by date, and provides:

- the name of the supplier
- the cheque and voucher numbers
- the amount paid
- the non-monetary contribution received or the amount unpaid
- a classification of the expense by nature and its commercial value
  [451(2)(*a*), 451(2)(*b*)]

Part 3b – Statement of electoral campaign expenses other than election expenses

This part provides the official agent with a means to explain those electoral campaign expenses that are not included in the election expenses of the candidate. It recapitulates the name of the supplier, the cheque, voucher number, the amount of discount, the unpaid amount and the expenditure classification. It also lists loan payments and transfers.
[451(2.1)]

Part 3c – Statement concerning personal expenses declared in part 3a, column 8

This part is a summary of the candidate's personal expenses classified by the nature of the expenditure, including:

- the cost of transportation to and within the electoral district
- temporary lodging, meals and incidental expenses
- other necessary personal expenses related to the campaign
- remuneration of representatives of the candidate present at a polling station [451(2.1)]

Part 3d – Statement of unpaid claims declared in part 3a

This part provides a listing of claims that remain unpaid, indicating the name of the supplier (on a day that is 18 months after election day, with some exceptions, an unpaid claim becomes a contribution of the supplier), and the amount of the claim. If the claim is a disputed claim, the official agent will note the disputed amount next to the agreed amount.
[451(2)(*d*), 451(2)(*e*)]

Part 4 – Campaign financial summary

This part provides a summary of all of the financial information on the return that will be published by the Chief Electoral Officer. In particular, the contributions, expenses, surplus, and bank reconciliation are clearly identified and summarized.
[451(2.1)]

6.3 Auditor's report and checklist

The official agent must include with the return the auditor's report, including the *Checklist for Audits* (EC 20011). The official agent should include the auditor's invoice for fees to allow reimbursement of those fees in accordance with the Act.
[451(1)(*b*), 466]

6.4 *Candidate's Statement of Personal Expenses*

Within three months after election day, the candidate must submit to the official agent:

- the *Candidate's Statement of Personal Expenses* (EC 20220) paid by the candidate and not reimbursed by the official agent
- all supporting vouchers and proof of payment for any personal expense of $50 or more
- proof of payment for any expenses under $50
  [410(1), 410(2), 456(1)(*a*)]

The candidate must submit to the official agent the *Candidate's Statement of Personal Expenses* (EC 20220) even if he or she has incurred no personal expense.
[456(1)(*b*)]

6.5 Supporting documentation

Together with the return, the official agent must file the official agent's and candidate's declarations, and documents supporting the expenses set out in the return, including bank statements, deposit slips, cancelled cheques and the *Candidate's Statement of Personal Expenses* (EC 20220).
[451(2.1)]

If the Chief Electoral Officer believes that the supporting documents provided are not sufficient, he or she may require the official agent to provide by a specified date any additional documents that are necessary to comply with the subsection.
[451(2.2)]

6.6 Deadline for filing

When and where

Within four months after election day or the publication of the withdrawal notice of the writ for the election, the **official agent** must send to the Chief Electoral Officer in Ottawa the audited *Candidate's Electoral Campaign Return* (EC 20120) accompanied by the auditor's report.
[451(4)]

An elected member who does not file the required documentation, including the declaration of the candidate, or fails to make a required correction, will not be allowed to sit or vote in the House of Commons until it is provided or made, as the case may be.
[463(2)]

A candidate or the official agent may apply to a judge for an order relieving the official agent from the obligation to provide the *Candidate's Electoral Campaign Return* (EC 20120) if the documents have been destroyed by a superior force, including a flood, fire or other disaster. The person applying for the order must notify the Chief Electoral Officer that he or she has made the application.
[462(1), 462(2)]

Extension by Chief Electoral Officer

If the official agent cannot send the **return**, both declarations and audit report (including the checklist for audit) within four months after election day, the official agent or the candidate may apply to the Chief Electoral Officer before the expiry of this four-month period for an authorization to send the return and declarations within an extended time. The *Application for Extension of Period for Providing Electoral Campaign Return Documents* (EC 20157) may be used.
[458(1)(*a*)]

An application for an extension may be granted by the Chief Electoral Officer only if the application arose from one of the following four reasons:

- the illness of the applicant
- the absence, death, illness or misconduct of the official agent or a predecessor
- the absence, death, illness or misconduct of an agent, a clerk or an officer of the official agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact

If the Chief Electoral Officer refuses to authorize an extension, or the official agent or the candidate is unable to file the required documents within the extended period, the candidate or the official agent may apply to a judge to allow the sending of the required documents within an extended time. The candidate or the official agent must apply within two weeks after the expiration of the original deadline or of an extended period, as the case may be. An application to a judge may only be granted on the basis of one of the grounds listed above.
[459(1)(*b*), 459(2)(*b*)]

If a return and the required supporting documents are not filed within the four-month deadline or an extension thereof, the official agent and the candidate may be liable to prosecution.
[497(1)(*u*), 497(1)(*v*), 497(3)(*r*), 497(3)(*s*)]

6.7 Amended return

Errors and omissions

The Chief Electoral Officer may, in writing, request the official agent or the candidate to correct the return within a specified period.
[457(2)]

The candidate or the official agent may apply to a judge for an order relieving them from complying with a request to correct the return. The candidate or the official agent must apply within the time period specified by the Chief Electoral Officer for the correction, or within two weeks after the expiration of that period, and must notify the Chief Electoral Officer of the application.
[459(1)(*a*), 459(2)(*b*)]

Authorization of the Chief Electoral Officer

As soon as a candidate or official agent becomes aware of the need for a correction of the return, either of them may make a written application to the Chief Electoral Officer to authorize a correction. The Chief Electoral Officer may authorize the correction of the return, or any document updated since the original filing, if he or she is satisfied by the evidence submitted by the applicant that the reason for the application was:
[458(1)(*b*), 458(2)(*b*), 458(3)]

- the illness of the applicant
- the absence, death, illness or misconduct of the official agent or a predecessor
- the absence, death, illness or misconduct of an agent, a clerk or an officer of the official agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact

The *Request for the Candidate's Statement of Surplus / Updated Electoral Campaign Return* form (EC 20048) may be used.

Corrections by the Chief Electoral Officer

The Chief Electoral Officer may correct a *Candidate's Electoral Campaign Return* (EC 20120) or any updated document provided since the original filing, if the correction does not materially affect its substance.
[457(1)]

For example, the reclassification of an expense would be the type of correction that could be made to a *Candidate's Electoral Campaign Return* (EC 20120). On the other hand, an omission in the return could not be remedied by the Chief Electoral Officer's correction: the official agent would have to file an amended version of the return.

Payment of unpaid claims

When, after the four-month period after polling day, one of the following occurs:

- an unpaid claim is paid, with the authorization of the Chief Electoral Officer or a judge
- a disputed claim is made in accordance with court proceedings, or
- a claim is paid where the period for sending the invoice was extended because of the death of the claimant

the official agent must provide an updated return to the Chief Electoral Officer within 30 days of making the payment. If the original claim had been subject to an audit as part of the audit of the return, the updated return does not need to be audited.
[455]

If an unpaid claim remains unpaid (in whole or in part) on the day that is 18 months after election day for the election to which the return relates, the amount is deemed to be a contribution to the candidate made as of the day on which the expense was incurred, and is subject to the rules on contributions.
[450(1)]

This provision does not apply to:
[450(2)]

- a claim that is the subject of a binding agreement to pay
- a claim that is the subject of a legal proceeding to secure its payment
- a claim that is the subject of a dispute as to the amount the candidate was liable to pay, or the amount that remains unpaid, or
- a claim that has been written off by the creditor as an uncollectible debt in accordance with the creditor's normal accounting practices

If a candidate or an official agent believes that any of these circumstances applies to an unpaid claim disclosed in the return already filed, the candidate or the official agent must notify the Chief Electoral Officer accordingly before the day that is 18 months after election day.
[450(3)]

6.8 Maintaining books and records

The official agent must maintain proper books and records if he or she is to monitor and report on contributions and expenses and to comply with the *Canada Elections Act* and the *Income Tax Act*. The necessary detailed forms to keep records and to submit returns are included in the candidate's kit provided by the returning officer at the time of the confirmation of the nomination.
[436]

Supporting documentation

For each expense of $50 or more incurred on account of or in the conduct or management of the election, a bill showing the nature of the purchase, the price charged and proof of payment must accompany the return. In the *Supplement to the Election Handbook for Candidates, Their Official Agents and Auditors* (EC 20151), a *Voucher Cover Template* is provided to help the official agent to organize the vouchers.
[410(1)]

Payments from petty cash funds held by the official agent or other persons authorized in writing by the official agent must be supported by vouchers. The official agent must send the nature of the expense together with the proof of the payments to the Chief Electoral Officer with the return for petty cash payments of $50 or more.

For petty cash payments of less than $50, the official agent must keep a record of the nature of the expense, together with proof.
[410(2)]

If goods or services are donated by an individual who normally sells the goods or services, then the official agent should provide a "no-charge" invoice showing the commercial value of the goods or services donated.
[2(1) "commercial value", 451(2.1)]

If goods or services are donated by an individual who does not issue invoices, the contributor or the official agent should prepare a pro forma invoice showing the date of the contribution, the name and address of the contributor, the nature of the goods or services contributed and the commercial value of the goods or services.
[2(1) "commercial value", 2(2), 451(1)]

If the goods or services have a commercial value of $200 or less and were donated by an individual who does not supply the goods or services commercially, the contribution has a deemed value of nil, and no supporting documentation is required.
[2(2)]

The official agent must provide the auditor with access to all documents of the candidate, including:
[453(4)]

- copies of receipts issued for contributions
- bank statements, deposit slips and cancelled cheques
- a list of cheques issued but not yet cashed at the bank
- copies of all bills, vouchers and pro forma invoices
- details of loans obtained
- details of the proceeds of fundraising functions and other miscellaneous revenues
- the *Candidate's Electoral Campaign Return* (EC 20120)

Retention period

The *Income Tax Act* requires that the official agent keep records and books of accounts for all amounts contributed and all expenditures made, so that these amounts can be verified. The official agent must retain these records for two full years after the end of the calendar year to which the records or books of accounts relate.

For example, if an election had been held on November 12, 2000, books and records would have to be retained until December 31, 2002.

Destruction of books and records

As soon as practicable after receiving them, the Chief Electoral Officer sends the returning officer a copy of the *Candidate's Electoral Campaign Return* (EC 20120), auditor's report and declarations for the electoral district. The returning officer must permit any member of the public to examine these documents and make extracts from them for a period of six months. The returning officer must retain the documents for a further three years or any other shorter period that the Chief Electoral Officer considers appropriate.
[413]

This means that a member of the public can view the documents and obtain copies of them for a period of up to six months after the deadline for submission of the return. Although returning officers are not required by law to provide copies, it is Elections Canada's normal practice to have returning officers provide copies to members of the public at a cost of $0.25 per page. At any time after the initial six

months, the information contained in the returns is also available on the Elections Canada Web site or by contacting Elections Canada.
[413(2)]

Since the documents are destroyed by the returning officer after 3½ years, or sooner on the written order of the Chief Electoral Officer, Elections Canada recommends that candidates make copies of documents for their own purposes.
[413(3)]

7. Gifts and other advantages

(effective as of June 12, 2007)

Once a person becomes a candidate, there are restrictions on the gifts or other advantages that he or she can accept. The *Canada Elections Act* also requires certain gifts and other advantages to be reported to the Chief Electoral Officer. These restrictions and reporting requirements are set out in sections 92.1 to 92.6 of the *Canada Elections Act,* and are summarized below.

Definitions

For the purposes of the above restrictions and reports, a "gift or other advantage" is defined as:

- an amount of money if there is no obligation to repay it
- a service or property, or the use of property or money, that is provided without charge or at less than its commercial value
- either of the above, given by a "relative" or as a normal expression of courtesy or protocol

The definition **excludes** a monetary or non-monetary contribution or a transfer received in relation to the candidate's electoral campaign as defined in the *Canada Elections Act.*

For the purposes of the legal provisions on gifts or other advantages, a person becomes a candidate on the earlier of:

- the day on which he or she is selected at a nomination contest, or
- the day on which the writ is issued for an election

7.1 Prohibition on receiving gifts or other advantages

A candidate, as defined above, may not accept any gift or other advantage that might reasonably be seen to have been given to influence him or her in the performance of his or her duties and functions as a member, if elected, during the period that:

- begins on the day on which he or she becomes a candidate
- ends on the day on which he or she withdraws in accordance with subsection 74(1), or becomes a member, in the case of a candidate who is elected, or on election day, in any other case
  [92.2(1)]

However, a candidate may accept a gift or other advantage that is given by a "relative" or as a normal expression of courtesy or protocol.
[92.2(2)]

Definitions

A "relative" is a person related to the candidate by marriage, common-law partnership, birth, adoption or affinity.

A "common-law partnership" is the relationship between two persons who are cohabiting in a conjugal relationship that has lasted for at least one year.
[92.2(6)]

7.2 Reporting requirement

If a candidate accepts gifts or other advantages (as defined) during the period of his or her candidacy, he or she must provide a statement to the Chief Electoral Officer concerning those gifts or other advantages only if their benefit to the candidate exceeds $500. If a donor gave more than one gift or other advantage, all gifts or advantages from that donor should be reported if the total benefit exceeds $500.

A candidate is not required to report gifts or other advantages given by a relative (as defined) or made by way of an unconditional, non-discretionary testamentary disposition.

The statement to be used for reporting these gifts or other advantages is the *Candidate's Statement of Gifts or Other Advantages Received* (EC 20053).

In the report, the candidate is required to set out:

- the nature of each gift or other advantage, its commercial value, and cost, if any, to the candidate
- the name and address of the person or entity giving the gift or other advantage
- the circumstances under which the gift or other advantage was given
[92.2(3)]

Filing deadline

The statement must be provided to the Chief Electoral Officer within four months after election day or the publication of a notice of withdrawal of the writ for an election.
[92.2(3), 92.2(5)]

Filing deadline extension

If the candidate cannot send the *Candidate's Statement of Gifts or Other Advantages Received* (EC 20053) within four months after election day, before the expiry of this four-month period the candidate may apply to the Chief Electoral Officer for an authorization to send the statement within an extended time. The *Application for Extension of Period for Providing Electoral Campaign Return Documents* (EC 20157) may be used.
[92.3]

An application for an extension may be granted by the Chief Electoral Officer only if the application arose from one of the following two reasons:

- the illness of the candidate, or
- inadvertence or an honest mistake of fact

If the Chief Electoral Officer refuses to authorize an extension, or the candidate is unable to file the required documents within the extended period, the candidate may apply to a judge to allow the sending of the required documents within an extended time. The candidate must apply within two weeks after the refusal by the Chief Electoral Officer or within two weeks after the expiration of the extended period, as the case may be. An application to a judge may only be granted on the basis of one of the grounds listed above.
[92.4(1)]

Error or correction

As soon as a **candidate** becomes aware of the need for a correction of the *Candidate's Statement of Gifts or Other Advantages Received*, the candidate may make a written application to the Chief Electoral Officer to authorize a correction. The Chief Electoral Officer may authorize the correction of the *Candidate's Statement of Gifts or Other Advantages Received*, or any document updated since the original filing, if he or she is satisfied by the evidence submitted by the candidate that the reason for the application was:

- the illness of the candidate, or
- inadvertence or an honest mistake of fact
  [92.3(3)]

The *Request for the Candidate's Statement of Surplus / Updated Electoral Campaign Return* form (EC 20048) may be used.

Retention period

The Chief Electoral Officer retains in his or her possession the *Candidate's Statement of Gifts or Other Advantages Received* (EC 20053) for at least one year after the return of the writ for the election. The completed statement is kept confidential; however, the Commissioner of Canada Elections may inspect all statements and provide them to the Director of Public Prosecutions for the purpose of a prosecution under the Act.
[92.5(1), 92.5(2)]

8. Closing out the campaign

8.1 Steps to close out the campaign

To close out the campaign, the official agent must take four steps:
[437(4)]

- dispose of any surplus
- deal with unpaid claims in accordance with the Act
- close the campaign bank account
- file any required updates to the original return

8.2 Definition of surplus

The surplus amount of electoral funds that a candidate receives for an election is the amount by which the candidate's electoral revenues are more than the total of the candidate's electoral campaign expenses paid by the candidate's official agent and certain transfers.
[471]

Electoral revenues include:

- monetary contributions made to the candidate
- an election expense or personal expense for which a reimbursement was received
- the candidate's nomination deposit for which he or she was reimbursed, and
- any other amount that was received by the candidate for the candidate's electoral campaign and that is not repayable, including transfers from registered parties, registered associations and nomination contestants

The transfers are:

- any funds that the candidate transfers, during the election, to the registered party or to a registered association
- any amount of a reimbursement of election expenses and personal expenses of the candidate that the candidate transfers to that registered party, and
- any funds transferred from a candidate to himself or herself in his or her capacity as a nomination contestant for the same election

It is essential to note that unused inventory and any residual assets are also included in the surplus.

8.3 Notice of estimated surplus

If the Chief Electoral Officer estimates that a candidate has a surplus of electoral funds, the Chief Electoral Officer will issue a notice of the estimated amount of surplus to the official agent, who will then be required to submit the *Candidate's Statement of Surplus / Updated Electoral Campaign Return* (EC 20048).
[472(1)]

8.4 Disposition of surplus and deadlines

The official agent of a candidate is required to dispose of the surplus of electoral funds within 60 days after receiving the notice of estimated surplus. Any excess of revenues over expenses and transfers must be paid to:
[473(1)]

- in the case of a candidate who was endorsed by a registered party, to that party or to the registered association of that party in the candidate's electoral district, or
  [473(2)(*a*)]
- in any other case, to the Receiver General for Canada
  [473(2)(*b*)]

An official agent who has a surplus of electoral funds but has not received a notice of estimated surplus must dispose of that surplus within 60 days after whichever is later:
[472(2)]

- receiving the final instalment of the reimbursement of the candidate's election and personal expenses and receiving the reimbursement of the candidate's nomination deposit, or
  [472(2)(*a*)]
- sending in the *Candidate's Electoral Campaign Return* (EC 20120), if the candidate did not receive either the expenses reimbursement or the deposit reimbursement, or both
  [472(2)(*b*)]

8.5 Filing the *Candidate's Statement of Surplus / Updated Electoral Campaign Return*

Within seven days after disposing of a candidate's surplus electoral funds, the official agent must notify the Chief Electoral Officer by submitting the *Candidate's Statement of Surplus / Updated Electoral Campaign Return* (EC 20048) of the amount and date of the disposal and to whom the surplus was transferred.
[474(1)]

The Chief Electoral Officer will publish this information as soon as practicable after the disposition of the surplus of electoral funds by the official agent.
[474(2)]

8.6 Closing the campaign bank account

After any surplus has been disposed of, and after unpaid claims have been dealt with in accordance with the Act, the official agent must close the campaign bank account and forward all bank statements, including the one that confirms the closure of the account, to Elections Canada.
[437(4), 437(5)]

9. Compliance and enforcement

9.1 Commissioner of Canada Elections and Director of Public Prosecutions

The Commissioner of Canada Elections is appointed by the Chief Electoral Officer. Both the Commissioner and the Director of Public Prosecutions have responsibilities for compliance and enforcement under the *Canada Elections Act*. The Commissioner assesses each case brought to his or her attention in light of the Act and the particular circumstances of the case.

If the Commissioner believes, on reasonable grounds, that an offence has been committed under the *Canada Elections Act,* he or she may refer the matter to the Director of Public Prosecutions, who will decide whether to initiate a prosecution. The prosecution of offences under the Act can only be undertaken with the prior written consent of the Director of Public Prosecutions. A prosecution for an offence under the Act must be instituted within five years after the day on which the Commissioner becomes aware of the facts giving rise to the prosecution, and not later than 10 years after the day on which the offence was committed.

In addition to the power to refer matters for possible prosecution to the Director of Public Prosecutions, the Commissioner may also apply for injunctions and enter into compliance agreements to ensure compliance with the Act. In an effort to educate and to promote compliance with the Act, the Commissioner may issue a formal caution to a person who may have committed an offence under the Act.

During an election period, the Commissioner may apply to a competent court for an injunction if the Commissioner has reasonable grounds to believe that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. The court may order any person to refrain from committing any act that appears to the court to be contrary to the law, or to perform any act that appears to the court to be required by the law.

The Commissioner may also enter into a compliance agreement with any person to ensure compliance with the Act. The Commissioner may enter into a compliance agreement if he or she believes on reasonable grounds that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. A compliance agreement may contain any terms or conditions that the Commissioner considers necessary to ensure compliance with the Act.

Under section 521.1 of the Act, the Commissioner may apply to a court for an order to deregister a registered party if, after notice to the party, the Commissioner still has reasonable grounds to suspect that the party does not have as one of its fundamental purposes participating in public affairs by endorsing one or more of its members as candidates and supporting their election.

9.2 Offences and penalties

All of the offences and penalties for violations of the *Canada Elections Act* are found in Part 19 of the Act.

Penalties vary for convictions, depending on the offence, the procedure selected to prosecute and the seriousness of the offence. Many offences have penalties that can result in fines, imprisonment or both. Section 500 of the Act should be consulted with respect to the specific potential penalties for conviction for a particular offence. [500]

The Act also enables a court to impose additional penalties once a person has been convicted, having regard to the nature of the offence and the circumstances surrounding its commission. A person may be liable, in addition to any other penalty, to:

- perform community service
- pay an amount to the Receiver General if the offence resulted in a financial benefit
- compensate any other person who has suffered damages as a result of the commission of the offence
- perform any obligation the non-performance of which gave rise to the offence, or
- take any other reasonable measure that the court considers appropriate to ensure compliance with the Act
  [501]

Certain offences, listed in section 502 of the Act, are known as "illegal" or "corrupt" practices. For persons convicted of illegal or corrupt practices, the Act provides for further penalties. As well as any other penalty that may be imposed, a person found guilty of one of these offences loses the right to be a candidate in a federal election, to sit as a member in the House of Commons, and to hold any office to which the incumbent is appointed by the Crown or by Governor in Council – for five years in the case of an illegal practice, and for seven years in the case of corrupt practices. [502].

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